

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

CORA BELL BROWN-BRANTY, ET AL. §

VS. § CIVIL ACTION NO. 1:05cv287

CROSSETT CHAMBER OF COMMERCE, §
ET AL.

MEMORANDUM OPINION REGARDING VENUE

Plaintiffs Cora Bell Brown-Branty and Robert Earl Robinson, an inmate at the United States Penitentiary in Marion, Illinois, proceeding *pro se*, bring this civil action against the Crossett Chamber of Commerce, the 10th Judicial District Court, and the Arkansas Department of Justice.

The above-styled action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636 and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. Here, plaintiffs

complain of incidents which occurred in Crossett, Arkansas. Further, the defendants are located in Arkansas. When public officials are parties to an action in their official capacities, they reside for venue purposes in the county where they perform their official duties, which in this case is Ashley County, Arkansas. *Holloway v. Gunnell*, 685 F.2d 150 (5th Cir. 1982); *Lowrey v. Estelle*, 433 F.2d 265 (5th Cir. 1976).

Pursuant to 28 U.S.C. § 83, Ashley County is in the El Dorado Division of the Western District of Arkansas. As Ashley County is located in the Western District of Arkansas, venue in the Eastern District of Texas is not proper.

When venue is not proper, the court "shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought." 28 U.S.C. § 1406(a). This case should be transferred to the Western District of Arkansas. An appropriate order so providing will be entered by the undersigned.

SIGNED this the 2nd day of May, 2005.



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE